REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Claims 1-17 are pending in the application.

Allowable Claims 12-17

The Applicants thank the Examiner for the indication that claims 12-17 are allowed and claims 2-11 recited allowable subject matter.

Claims 1 over Lee in view of Bannai

Claims 1 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,665,302 to Lee in view of U.S. Patent No. 6,647,428 to Bannai. The Applicants respectfully traverse the rejection.

Independent claim 1 specifies prioritizing switching of a data frame by an integrated network switch to an output port according to a user-defined policy and based on a user-selected attribute of the data frame.

Hence, a user is able to select prioritization of data frames based on, e.g., identification of any one of a prescribed network switch port receiving a data packet, a prescribed source address within the data packet, a prescribed destination address within the data packet, and/or identification of the data packet as belonging to a prescribed data flow.

The Office Action alleges that Lee's ATM network equates to the recited integrated network switch (See Office Action, page 3). The Applicants respectfully disagree.

Applicants claim 1 recites an integrated network switch, a term of art. Lee discloses an ATM network that relies on an ATM switch. An ATM switch is **NOT** an integrated network switch. The broadest reasonable interpretation cannot be inconsistent with the specification, which defines the claimed integrated network switch as a single chip switch (see, e.g., page 4, line 12). Hence, "claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification in giving them their 'broadest reasonable interpretation.'" MPEP § 2111.01 at 2100-37 (Rev. 1, Feb. 2000) (quoting In re Marosi, 218 USPQ 289, 292 (Fed. Cir. 1983)(emphasis in original)).

Moreover, Lee fails to disclose switching based on a user-selected attribute of a data frame. Lee discloses quality of service classes that include substantially constant bit rate, variable bit rate and unspecified bit rate, available variable bit rate and variable variable bit rate (See Lee, col. 2, lines 16-38). Lee's improvement within the art of ATM switching is to add a special flag to certain unspecified bit rate (UBR) timing slots to indicate those items of UBR data are priority UBR data (See Lee, col. 3, lines 49-55). The special priority flag is included in a header of a UBR packet (See Lee, col. 3, lines 49-55). Thus, Lee's priority switching schemes are pre-configured within the switch to prioritize data on a desired bit rate between a source and a destination, with a header flag used to change a priority. Lee fails to disclose or suggest allowing a user to select an attribute of a data frame that is a basis for prioritized switching, i.e., prioritized switching based on a **user-selected attribute** of a **data frame**, much less prioritizing switching of a data frame by an integrated , i.e., single chip, network switch to an output port according to a user-defined policy and based on a user-selected attribute of the data frame.

Moreover, Lee is directed to performing prescribed actions based on a class of service in an ATM network, not reasonably pertinent to the particular problem with which the inventors were involved, namely providing prioritizing switching of a data frame by an integrated network switch to an output switch port. Lee provides no disclosure or suggestion of switching of data frames with an integrated network switch, and as such is non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

As admitted in the Office Action, Lee fails to disclose user-defined policies of data frames (See Office Action, page 3). However, the Office Action relies on Bannai to allegedly make up for the deficiencies in Lee to arrive at the claimed invention. The Applicants respectfully disagree.

The Office Action points to Bannai at col. 6, lines 1-67 and col. 8, line 15-col. 13, line 67 to disclose packet switching based on user-defined micro code (See Office Action, page 3).

Bannai discloses per-packet operations that are user-defined in processor microcode (See col. 9, lines 61-62), i.e., programmed by a user. Bannai goes on to define those user-defined per-packet operations as packet-by-packet lookup based on an Ethernet VLAN ID, on an MPLS tag within a packet, or an IP address for Ethernet

frames (See col. 9, line 65-col. 10, line 20). Bannai's fails to disclose or suggest allowing a user to select an attribute of a data frame as a basis for prioritized switching, i.e., prioritized switching on a **user-selected attribute of a data frame**, much less prioritizing switching of a data frame by an integrated network switch to an output port according to a user-defined policy and based on a user-selected attribute of the data frame, as recited by claim 1.

Further, the Official Action fails to demonstrate why one having ordinary skill in the art would have been motivated to modify Lee to include the teachings of Bannai. "Teachings of references can be combined only if there is some suggestion or incentive to do so." In re Fine, 5 USPQ2d 1596,1600 (Fed. Cir. 1988) (quoting ACS Hosp. Sys. v. Montefiore Hosp., 221 USPQ 929, 933 (Fed. Cir. 1984)) (emphasis in original). Lee discloses switching within a telecommunications network. Modifying Lee with a switch from LAN is not only **nonsensical**, but the addition of such an incompatible switch into Lee's system would result in Lee's system becoming inoperable.

Neither Lee nor Bannai even mention use of an integrated network switch, an explicit claim limitation defined as a switch implemented on a single silicon chip. Lee is directed to switching within a telecommunications network, and is not within the field of the inventors' endeavor, namely providing an improvement within the art of integrated network switches; further, neither Lee nor Bannai are reasonably pertinent to the particular problem with which the inventors were involved, namely providing an integrated network switch that prioritizes switching of a data frame to an output port according to a user-defined policy and based on a user-selected attribute of the data frame. Lee nor Bannai provide disclosure or suggestion of using an integrated network switch that prioritizes switching of a data frame to an output port according to a user-defined policy and based on a user-selected attribute of the data frame, and as such are non-analogous art. In re Wood, 202 USPQ 171, 174 (CCPA 1979).

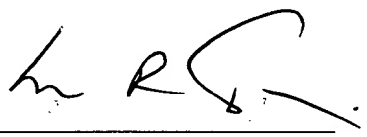
Accordingly, for at least all the above reasons, claim 1 is patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-0687, under Order No. 95-311, and please credit any excess fees to such deposit account.

Respectfully submitted,
MANELLI DENISON & SELTER PLLC



Leon R. Turkevich
Reg. No.: 34,035
Tel. (202) 261-1020
Fax. (202) 887-0336

Customer No. 20736
2000 M Street, N.W. 7th Floor
Washington D.C. 20036-3307
(202) 261-1000
Facsimile (202) 887-0336
Date: April 11, 2005